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view judgment dismissing the application, the applicant brings error. Judgment reversed, and applicant relieved.

*R. S. Parks* and *Leedy & Berry*, all of Luray, and *D. O. Dechert*, of Harrisonburg, for plaintiff in error.

The Attorney General, for the Commonwealth.

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WARWICK COUNTY et al. v. CITY OF NEWPORT NEWS.

Nov. 16, 1916.

[90 S. E. 644.]

1. **Municipal Corporations (§ 33 (2)\*)—Annexation Ordinance—Sufficiency—Statute.**—Under Code 1904, § 1014a, cl. 1, providing that the council shall declare by an ordinance the terms on which it desires to annex territory, and the provisions are made for its future management, an ordinance for the annexation of territory from a county, which set forth the case of the city as fully and explicitly as was practicable under the circumstances, was not insufficient as not setting forth the provisions made for the future management and improvement of the annexed territory.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 82; Dec. Dig. § 33 (2).\* 10 Va.-W. Va. Enc. Dig. 161.]

2. **Municipal Corporations (§ 33 (7)\*)—Annexation of Territory—Order Referring to Ordinance—Revenue—Statute.**—Under Code 1904, § 1014a, cl. 3, providing that all revenues derived by a city from annexed territory during five years shall be wholly expended on improvements in the annexed territory, where the annexation order of the court ratified and approved all the terms and conditions set forth in a city's ordinance to annex territory of a county, while such ordinance provided that all revenues derived by the city from the annexed territory for five years should be wholly expended on improvements in such territory, the annexation order was not improper as failing to provide against the misuse of taxes and levies to be derived by the city from the annexed territory.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 92; Dec. Dig. § 33 (7).\* 10 Va.-W. Va. Enc. Dig. 163.]

3. **Municipal Corporations (§ 120\*)—Annexation Ordinance—Construction.**—The provisions of a city's annexation ordinance relative to the use of revenues from the territory annexed from a county are to be interpreted in the light of the whole ordinance, as well as of the court's order of annexation and the statute, Code 1904, § 1014a, cl. 3, providing that all revenues derived by a city from annexed ter-

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\*For other cases see same topic and KEY-NUMBER in all Key-Number Digest and Indexes.

ritory during five years shall be wholly expended on improvements in the annexed territory.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. §§ 274-280; Dec. Dig. § 120.\* 16 Va.-W. Va. Enc. Dig. 944.]

**4. Appeal and Error (§ 1078 (1)\*)—Waiver of Assignment.**—An assignment of error to the admission and consideration of evidence, which does not call the court's attention to any particular evidence as improperly admitted, and has not been argued, either in the petition for writ of error or counsel's brief, is presumed to be waived.

[Ed. Note.—For other cases, see *Appeal and Error*, Cent. Dig. § 4256; Dec. Dig. § 1078 (1).\* 1 Va.-W. Va. Enc. Dig. 503.]

**5. Municipal Corporations (§ 29 (3)\*)—Annexation of Territory—Embarrassing County's Revenues.**—Though the annexation of county territory by a city will for a time at least embarrass the county somewhat with respect to its revenues, the fact cannot be made the criterion, by which the question of annexation is to be adjudged.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 73; Dec. Dig. § 29 (3).\* 14 Va.-W. Va. Enc. Dig. 747.]

**6. Municipal Corporations (§ 33 (2)\*)—Annexation of Territory—Unnecessary Land.**—A proposed extension of the boundaries of a city must be determined as a whole, and unplanted or even marsh lands between that which should be annexed, and that the city must of necessity take them in, does not render the ordinance making the extension unreasonable.

[Ed. Note.—For other cases see *Municipal Corporations*, Cent. Dig. § 82; Dec. Dig. § 33 (2).\* 16 Va.-W. Va. Enc. Dig. 942.]

**7. Municipal Corporations (§ 33 (6)\*)—Annexation of Territory—Property—Sufficiency of Evidence.**—In proceedings relative to the annexation of territory to a city, the proofs, viewed from the standpoint of the state, the city, and citizens or owners of property within the territory to be annexed, held sufficient to warrant the court in concluding that the territory should be annexed, and thereby placed under the city's unrestricted power and control.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 91; Dec. Dig. § 33 (6).\* 16 Va.-W. Va. Enc. Dig. 942.]

Error to Circuit Court, Warwick County.

Petition by the City of Newport News against the County of Warwick and other. There was a decree ordering the annexation to the city of certain territory belonging to the county, and the county and others bring error. Judgment affirmed.

*S. Gordon Cumming*, of Hampton, *J. Winston Read*, of Newport News, *Phil. St. Geo. Willcox*, and *H. T. Wickham*, of Richmond, for plaintiffs in error.

*J. A. Massie*, of Newport News, for defendant in error.

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\*For other cases see same topic and KEY-NUMBER in all Key-Number Digest and Indexes.